

The SHOSHONE-BANNOCK TRIBES

FORT HALL INDIAN RESERVATION

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LAND USE DEPARTMENT

LAND USE COMMISSION

P. O. BOX 306

FORT HALL, IDAHO 83203

August 12, 2014

Mr. Jonathan Williams,
EPA Remedial Project Manager of the Eastern Michaud Flats, FMC OU
1200 Sixth Avenue
Seattle, Washington 98101

Re: Eastern Michaud Flats, FMC OU
Unilateral Administrative Order for Remedial Design and Remedial Action
EPA Docket No. CERCLA 10-2013-0116
Remedial Design, Soil Remedial Action

Dear Mr. Williams:

The FMC OU, consisting of the FMC Plant Site and other FMC- owned properties at the Eastern Michaud Flats Site (EMF) Site, is on fee land, most of which is located within the exterior boundaries of the Fort Hall Reservation. FMC Corporation has prepared a Remedial Action Work plan as set forth in the Interim Amendment to the Record of Decision for the EMF Superfund Site FMC Operable Unit (IRODA: Environmental Protection Agency [EPA], 2012) and a Remedial Design/Remedial Action (RD/RA) Unilateral Administrative Order (UAO).

The Tribes retain regulatory jurisdiction within the exterior boundaries of the reservation and specifically, maintain they have jurisdiction at the FMC site. In April 2014 a Tribal Court of Appeals confirmed our position. That said, the Tribes have been working with EPA to ensure actions taken at the FMC site are protective of human health and the environment and particularly protective of sensitive sub-populations that reside within the Fort Hall Reservation.

As described in the Remedial Design and the Site Wide Grading Phase, FMC plans to use approximately 4,155, 658 cubic yards for total cut, 3,176, 167 cubic yards for fill with a net of 979, 491 cubic yards. FMC plans to take a majority of the cut from RA-F, or the slag pile within the FMC site and plans to put any surplus back in the valley located in the center of the slag pile, northeast area.

The Tribes are adamantly against spreading and transferring any more of the radioactive slag throughout this site. The slag pile was built over 50 years, contains 22 rail cars, miscellaneous waste material and is a product of various grades of ore. The pile is not homogeneous and has never been fully characterized.

EPA has entered into a Voluntary Agreement on Consent with companies including FMC, to ban the use of slag due to the radioactive components. See Administrative Order on Consent, EPA Docket 10-96-045 RCRA. This was issued in 1996 which stated that it would provide parameters to reduce radiological exposures associated with the use of elemental phosphorus slag in Southeast Idaho.

The Tribes fully understand the gamma caps are being placed to shield the public from gamma radiation at the site but we do not agree that moving roughly a million cubic yards of this material around the site only to be capped is protective of the environment and question the rationale behind this. Digging, screening and moving that amount of radioactive material within the reservation boundaries is not acceptable. Airborne emissions from these sort of activities will not simply stop at the facility fencelines and will continue to impact human health and the environment not just on the reservation but to the local communities in Bannock County.

After a study dated April 1990 titled, "Idaho Radionuclide Study", the Fort Hall Business Council passed a Resolution banning the use of slag on the Reservation. At that point in time, this document stated that 60 to 65 microrem per hour which was considered to be 4 to 5 times higher than natural background. The ban on the use of slag is for the protection of human health and the environment.

If FMC is able to move this volumne of material around for re-grading fill material, certainly their prior position surrounding removal of the 22 railcars contained within this pile does not make sense.

We request no movement of slag or re-grading take place until this issue can be resolved satisfactorily.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Galloway".

Tony Galloway, Chairman
Land Use Policy Commission

Cc: Barry Crawford, Vice President, FMC
Nathan Small, Chairman FHBC
FHBC (7)
Andy Boyd, EPA Attorney
Dennis McClarren, Regional Administrator, EPA
Bill Bacon, Tribal Attorney
Jill Grant, Tribal Attorney
Kelly Wright, EWMP

